IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Laxmi Lal Vs. State of Raj. & Another
(D.B. Civil Special Appeal (Writ) No.1050/1997)

D. B. Civil Special Appeal under Ordinance 18 of the Rajasthan High Court Ordinance,1948 against the judgment dated 13-3-1997 of learned Single Judge in SB Civil Writ Petition No.5860/1993.

Date of Judgment: September 17, 2007.

PRESENT
HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE CHATRA RAM JAT

Mr. Ashwini Kumar Jaiman on behalf of
Mr. R.N.Mathur for the appellant.

Mr. M.L.Goyal, Addl. Govt. Advocate, for the respondent.

BY THE COURT: (Oral)

Challenge in this appeal is to the order dated March 13, 1997 of the learned Single Judge whereby the prayer of the appellant seeking quashing of the orders of Commissioner Excise Department (Disciplinary Authority) dated June 7, 1991 and Deputy Secretary Department of Finance (Appellate Authority) dated August 20, 1993 was declined and directions issued vide those orders in regard to removal of appellant from the services were affirmed.

2. Contextual facts depict that charge sheet was issued to the appellant vide memo dated October 18, 1986 under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeals) Rules,1958 and inquiry was initiated against the appellant on the following charge:-

"यह कि आप श्री लक्ष्मीलाल कंजर, प्रहराधिकारी के पद पर आबकारी निरोधक दल, दूदू (जयपुर) में कार्यरत थे, उस अवधि में दिनांक 7.6.86 को आप अपने अजमेर निवासी मित्र व आबकारी विभाग के स्टाप को कार में साथ लेकर ग्राम पडासोली अजमेर रोड थाना दूदू नटनियों के डेरों में जहां वेश्यावृति का पेशा होता है, गये। आप द्वारा उनके साथ मारपीट करने पर आपके विरूद्व थाना दूदू में एफ आई आर नं. 111/86 दर्ज हुई व आपको गिरफतार किया जाकर पुलिस हिरासत में रखा गया।

इस प्रकार आपका यह कृत्य आचरण संहिता के विपरीत कार्य कर अनुशासनहीनता एवं दुराचरण का परिचायक है।"

On completion of inquiry the Disciplinary Authority imposed punishment on the appellant by removing him from service. The order of Disciplinary Authority was affirmed in appeal by the Appellate Authority.

3. The appellant preferred writ petition seeking quashing of the aforesaid orders on the ground that since appellant was acquitted in criminal case vide order dated December 12, 1995, he could not be removed from the service. Learned Single Judge observed that the appellant was given full opportunities of hearing and his conduct of going to a place, which was famous for the flesh trade that too in suspicious circumstances, namely, without uniform, going in private car of his friend and carrying his friend, Jamadar and Sipahi, who were also without uniform, were sufficient for the department to come to the conclusion that the appellant had gone with ill-intention. It was further indicated that the criminal case stood on different footing and the acquittal in criminal case could not ipso-facto result reversion of the order of the Disciplinary Authority.

4. Learned counsel for the appellant while assailing the impugned order, placed reliance on Babu Lal v. State of Rajasthan [2000(3) WLC (Raj.) 529], wherein penalty of dismissal was altered on the ground that co-dlinquent

was awarded lesser punishment. Reliance was also placed on Union of India v. Mohd. Ramzan Khan (1991)1 SCC 588, wherein it was held that non furnishing of enquiry report to delinquent would be violative of principles of natural justice. After assailing the findings of learned Single Judge on merits, learned counsel for the appellant ultimately urged that since the punishment awarded to appellant was excessive, lesser penalty could be imposed.

5. We do not find any merit in these contentions. The impugned orders of removal in our opinion neither are shockingly disproportionate nor they are illogical. We do not see any deficiency in decision making process. The appellant was provided opportunity of hearing in accordance with the statutory rules and the impugned orders have been passed in confirmity with the principles of natural justice.

6. In Union of India Vs. Dwarka Prasad (2006)10 SCC 388, their Lordships of the Supreme Court indicated that court's interference with the quantum of punishment cannot be a routin matter. The court should not interfere with the Administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the consicence of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into correctness of the choice made by the Administrator open to him and the court should not substitute its decision to that of the Administrator. The scope of judicial review to deficiency in decision making process and not the decision.

7. In State of Rajasthan v. Mohammad Ayub Naz (2006)1 SCC 589 the Apex Court observed that in determining the quantum, role of administrative authority is primary and that of court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights.

8. The Authorities, in our opinion, have not omitted any relevant materials nor has any irrelevant fact been taken into account nor any illegality committed by the authorities. Since the charges against appellant are very serious in nature, we find no ground for interference in the matter.

9. For these reasons, the appeal being deviod of merit stands dismissed without any order as to costs.

(Chatra Ram Jat),J. (Shiv Kumar Sharma)J.

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